

REMARKS

Status of the Claims

Claims 1, 2, 4, 5 and 18-21 are currently pending in the application. Claims 2, 4, 5, 18, 19 and 21 stand rejected. Claim 1 is in condition for allowance. Claim 20 is withdrawn as being drawn to a non-elected invention. The Examiner objects to claim 5. Claims 2, 18, 20 and 21 have been amended as set forth herein. Claims 6-17 have been cancelled herein. All amendments and cancellations are made without prejudice or disclaimer. No new matter has been added by way of the present amendments. Specifically, the amendments to claims 2 and 18 are supported by the specification at, for instance, page 10, line 26 and page 12, line 14. Reconsideration is respectfully requested.

Objections to the Claims

The Examiner objects to claim 5. (See, Office Action of July 9, 2007, at page 4, hereinafter, "Office Action"). The Examiner states that claim 5 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. (*Id.*).

Applicants have amended claims 2 and 18 without prejudice or disclaimer and believe that these amendments place claim 5 in condition for allowance by addressing all outstanding issues barring allowance thereof.

Reconsideration and withdrawal of the objection to claim 5 are respectfully requested.

Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 2, 4, 18 and 19 stand rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. (*See*, Office Action, at page 4). Applicants traverse the rejection as set forth herein.

The Examiner states that claims 2 and 18 recite “0.1xSSC” and that this limitation is not supported by the as-filed specification. (*Id.* at pages 4-5).

Applicants see that this is a result of typographical error and have therefore amended claims 2 and 18 herein without prejudice or disclaimer to instead recite, “1 x SSC” as supported by the specification at, for instance, page 10, line 26, and elsewhere in the specification.

The Examiner states that claims 4 and 19 are included in this rejection because they depend from claims 2 and 18. Therefore, claims 4 and 19 are also believed to be adequately supported by the as-filed specification as, *inter alia*, depending from a fully described base claim, claims 2 and 18, respectively.

Reconsideration and withdrawal of the enablement rejection of claims 2, 4, 18 and 19 are respectfully requested.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claim 21 stands rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. (*See*, Office Action, at page 5). Applicants traverse the rejection as set forth herein.

The Examiner states that the phrase “to produce polypeptide (a) or (b) or a polypeptide encoded by (c) or (d),” recited in claim 21 is unclear because claim 5 does not recite (a), (b), (c) or (d). (*Id.*).

Although Applicants do not agree that claim 21 is indefinite, to expedite prosecution, claim 21 has been amended herein without prejudice or disclaimer to remove the phrase upon which the Examiner's rejection is based.

Reconsideration and withdrawal of the indefiniteness rejection of claim 21 are respectfully requested.

Rejoinder Requested

Applicants believe that by way of the present Amendment claims 1, 2, 4, 5, 18, 19 and 21 are in condition for allowance. Thus, Applicants respectfully request rejoinder of the method of claim 20 to the elected subject matter as it depends from an allowable base claim, claim 18 and incorporates all of the limitations of the allowable base claim. It is furthermore believed that claim 20 is also in condition for allowance as presently amended and satisfies all the requirements of 35 U.S.C. § 112. It is also noted that the Examiner has chosen to examine method claim 21. Thus, rejoinder of method claim 20 would be consistent with this action.

Applicants respectfully remind the Examiner that Applicants elected the product claims of Group I of the original Restriction Requirement of October 18, 2006 with traverse. Applicants further respectfully remind the Examiner that because the present Restriction is between a product (claims 1-5, 18 and 19) and its process of use (claim 20), where Applicants elect claims directed to the product, and a product is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claims will be rejoined in accordance with the provisions of M.P.E.P. § 821.04. Such process claims that depend from or otherwise include all the limitations of the patentable product are entered as a matter of right if the Amendment is presented prior to final rejection or allowance, Birch, Stewart, Kolasch & Birch, LLP

whichever is earlier. Furthermore, in the event of rejoinder, Applicants understand that the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims must be fully examined for patentability according to the provisions of 37 C.F.R. § 1.104.

Rejoinder and allowance of method claim 20 are respectfully requested.

ENTRY OF AMENDMENTS

The amendments to the claims should be entered by the Examiner because the amendments are supported by the as-filed specification and do not add new matter to the application. Additionally, the amendments should be entered since they comply with requirements as to form, and place the application in condition for allowance. Further, the amendments do not raise new issues or require a further search since the amendments incorporate elements from dependent claims into independent claims and/or are supported by the as-filed specification. Finally, if the Examiner determines that the amendments do not place the application in condition for allowance, entry is respectfully requested since they certainly remove issues for appeal.

CONCLUSION

If the Examiner has any questions or comments, please contact Thomas J. Siepmann, Ph.D., Registration No 57,374, at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: **DEC 10 2007**

Respectfully submitted,

By

Gerald M. Murphy, Jr.

Registration No: 18,977

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicants